



# Department of Defense Senior Intelligence Oversight Official

## **The DoD Intelligence Oversight Program A Department Level Perspective**



# Enabling Learning Objectives (ELOs)

- Identify the **key directives** guiding intelligence oversight.
- Describe **the Defense components** to which the IO Program applies.
- Describe the **Joint IG's responsibilities** for providing independent oversight of intelligence activities.



# Enabling Learning Objectives (ELOs)

- Identify the **reporting requirements** for:  
Questionable Intelligence Activities (QIAs)  
Significant/Highly Sensitive Matters (S/HSMs)
- Describe the **inspection methodology** used by the DoD SIOO as a model for Joint IG IO inspections
- Define: **U.S. Person**  
**Defense Intelligence Component**  
**Questionable Intelligence Activity**  
**Significant/Highly Sensitive Matter**





# AGENDA

- **Intelligence Oversight “Why We Have It”**
- **The OSD IO Community**  
**The Players, Relationships, and Regulations**
- **Essentials for Successful IO Programs**  
**What an IO Program Is...and Isn’t**  
**Roles and Responsibilities**
- **Inspection Techniques and Trends**

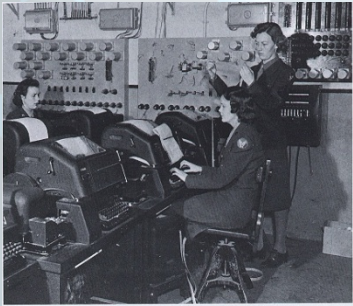


# DoD SIOO

## **Intelligence Oversight A Brief Historic Overview**



# Background “Why We Have It”



## PROJECT SHAMROCK PROJECT MINARET



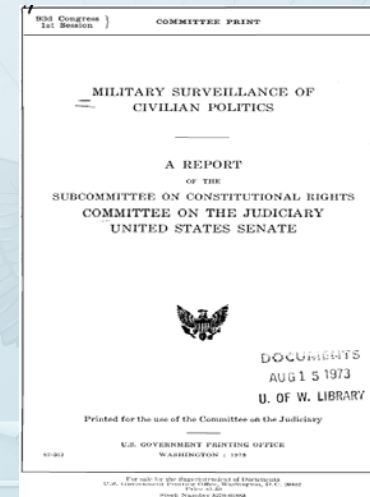
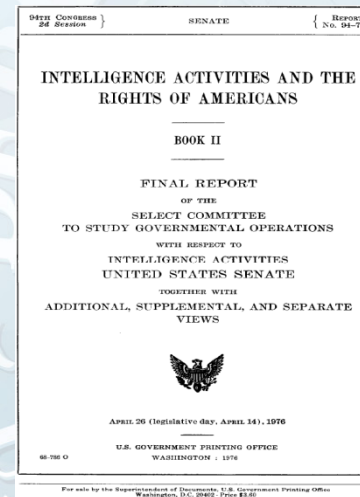
## VIETNAM ERA ANTI-WAR MOVEMENT



## CIVIL RIGHTS MOVEMENT



## Senator Frank Church Representative Otis Pike CONGRESSIONAL HEARINGS







# CHURCH COMMITTEE REPORT PIKE COMMITTEE REPORT

94th Congress }  
2d Session } SENATE { REPORT  
No. 94-755

## INTELLIGENCE ACTIVITIES AND THE RIGHTS OF AMERICANS

BOOK II

FINAL REPORT  
OF THE  
SELECT COMMITTEE  
TO STUDY GOVERNMENTAL OPERATIONS  
WITH RESPECT TO  
INTELLIGENCE ACTIVITIES  
UNITED STATES SENATE  
TOGETHER WITH  
ADDITIONAL, SUPPLEMENTAL, AND SEPARATE  
VIEWS



APRIL 26 (legislative day, APRIL 14), 1976

U.S. GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1976

68-786 O

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**“Army surveillance of  
civilians ... in the 1960’s  
was both massive and  
unrestrained ... over  
1,500 plainclothes  
agents.”**

**“... not so much a  
conscious effort to  
subvert the freedoms ...  
a classic example of a  
burgeoning bureaucracy  
going out of control ...”**

93d Congress }  
1st Session }

COMMITTEE PRINT

## MILITARY SURVEILLANCE OF CIVILIAN POLITICS

A REPORT  
OF THE  
SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS  
COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE



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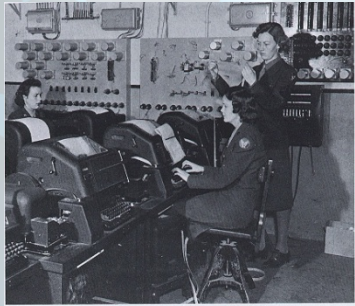
57-312

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# BACKGROUND

## "Why We Have It"



**PROJECT SHAMROCK**  
**PROJECT MINARET**



**VIETNAM ERA**  
**ANTI-WAR MOVEMENT**



**CIVIL RIGHTS**  
**MOVEMENT**



Senator Frank Church Representative Otis Pike

**CONGRESSIONAL HEARINGS**



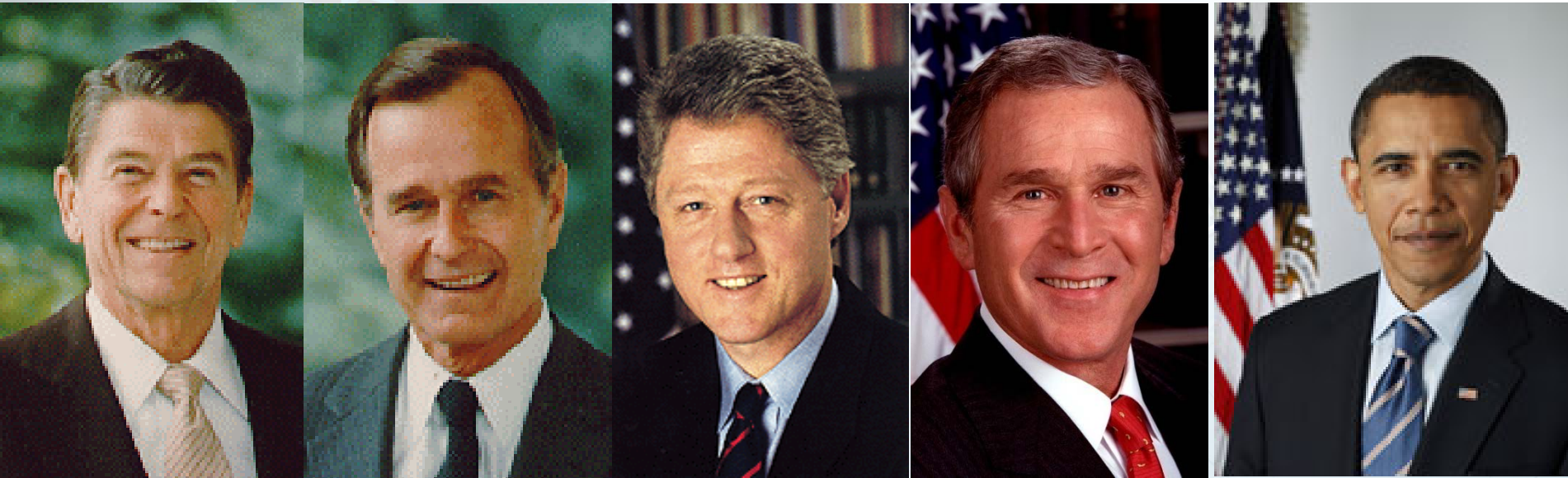
**EXECUTIVE ORDERS**





# BACKGROUND

## EXECUTIVE ORDER 12333



- **PRESIDENT REAGAN SIGNED E.O.12333 IN 1981**
- **VALIDATED BY SUBSEQUENT ADMINISTRATIONS**
- **UPDATED IN 2008 AND STILL CURRENT**





# INTELLIGENCE OVERSIGHT

## The purpose of the Intelligence Oversight program is:

- to enable DoD intelligence components to effectively carry out their appropriately authorized functions...
- while ensuring their activities that affect U.S. persons are carried out in a manner that protects the constitutional rights and privacy of such persons.



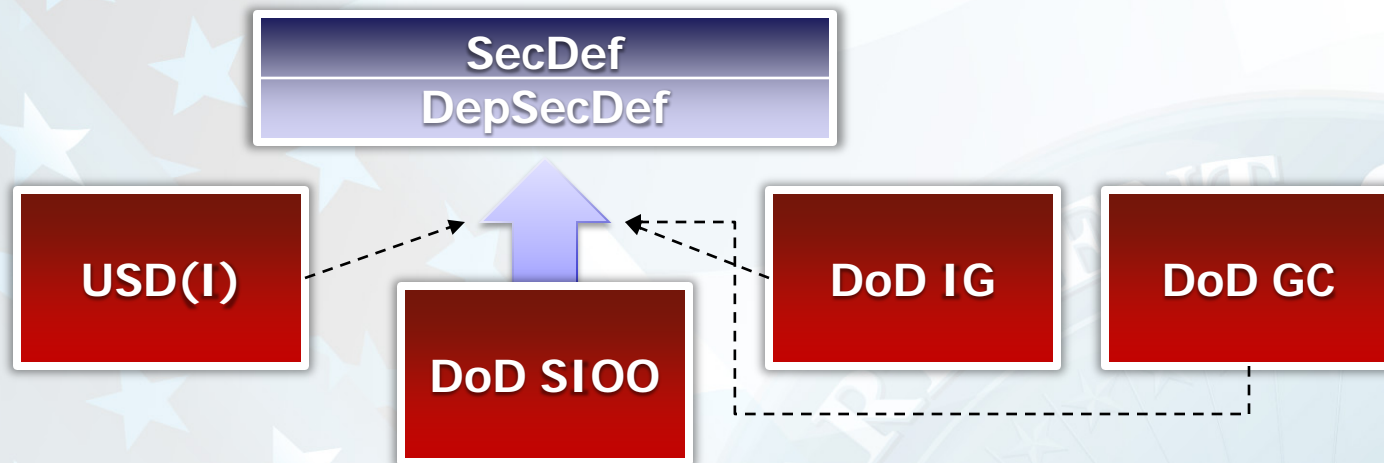
# DoD SIOO

## **The Intelligence Oversight Community and Regulations**





# OSD Intelligence Oversight





# DoD Intelligence Components

## SERVICES

- U.S. ARMY
- U.S. NAVY & USMC
- U.S. AIR FORCE

## AGENCIES

- NSA
- DIA
- NGA
- NRO

## NATIONAL GUARD

- ARMY NATIONAL GUARD
- AIR NATIONAL GUARD

## CCMDs

- NORTHCOM
- SOUTHCOM
- EUCOM
- CENTCOM
- PACOM
- AFRICOM
- SOCOM
- STRATCOM
- TRANSCOM

**Other organizations, staffs, and offices when used for intelligence or CI activities to which Part 2 of E.O. 12333 applies.**



# Key Orders, Directives, and Regulations

- **Executive Order 12333**
- **DoD Directive 5240.01**
- **DoD Manual 5240.01 + DTM 08-052**  
(DoD 5240.1-R remains in effect for Procedures 11-15)
- **DoD Directive 5148.11 (to be replaced by DoDI 5148.11)**
- **Joint Staff Regulation CJCSI 5901.01C**
- **Combatant Command Policies and Regulations**
- **Service and Agency Regulations**
  - AR 381-10
  - SECNAV Instruction 3820.3E
  - SECNAV Instruction 5000.34
  - MCO 3800.2
  - DIAD 5240.200
  - NGA Instruction NI 8900.4R5
  - NSA 1-23
  - AF Instruction 14-104





# DoD SIOO

## **DoDM 5240.01 Content Fundamentals**



# DODM 5240.01

## THE PROCEDURES

1. **APPLICABILITY**: ALL PERSONNEL CONDUCTING INTELLIGENCE ACTIVITIES UNDER DOD AUTHORITIES

2. **COLLECTION**

3. **RETENTION**

4. **DISSEMINATION**

RULES FOR HANDLING  
IDENTIFYING INFORMATION ABOUT  
U.S. PERSONS



# PROCEDURE ONE: SCOPE

## DOES NOT APPLY TO:

- **Law Enforcement of Civil Disturbance Activities**
- **Defense Support to Civil Authorities**
- **Humanitarian Assistance**
- **Disaster Readiness, Response, and Recovery**
- **Environmental and Security Vulnerability Studies**
- **Mapping, Charting, and Geodesic Missions**
- **National Manager for National Security Systems Activities**





# U.S. PERSON

## “Who...or What...Are They?”

- A. A **U.S. CITIZEN**
- B. An Alien Known by a Defense Intelligence Component to be a **PERMANENT RESIDENT ALIEN**
- C. An **UNINCORPORATED ASSOCIATION** Substantially Composed Of U.S. Citizens Or Permanent Resident Aliens
- D. A **CORPORATION INCORPORATED IN THE U.S** Except For A Corporation Directed And Controlled By a Foreign Government Or Governments



## PROCEDURE TWO: Collection of Information Concerning US Persons

Information that identifies a United States person may be collected by a DoD intelligence component ...

only if the USPI is **necessary for the performance of an authorized intelligence mission**

and only if the USPI falls within **one of the following categories:**



# PROCEDURE TWO: Collection

1. Publicly Available Information
2. Information Obtained with Consent
3. Foreign Intelligence
4. Counterintelligence
5. Threats to Safety
6. Protection of Intelligence Sources, Methods, and Activities
7. Current, Former, or Potential Sources of Assistance
8. Persons in Contact with Sources or Potential Sources
9. Personnel Security
10. Physical Security
11. Communications Security Investigation
12. Overhead and Airborne Reconnaissance
13. Administrative purposes





# PROCEDURES THREE and FOUR: Retention and Dissemination

Information that identifies a United States person may be **retained** by a DoD intelligence component **if collected IAW Procedure 2**.

Information that identifies a United States person may be **disseminated without consent** only:

- If the information is **publicly available**
- When collected and retained IAW **Procedures 2 and 3**
- When the recipient is reasonably believed to need the information to perform a governmental function and is:
  - ✓ Element of the **Intelligence Community**
  - ✓ **DoD** Element or Contractor
  - ✓ Other **Federal** Government Entity
  - ✓ **State, Local, Tribal, or Territorial** Government
  - ✓ **Foreign Government or International Organization** Pursuant to Agreement
  - ✓ Assistance to the Component
  - ✓ Protective Purposes (e.g., safety and security of persons or property)
  - ✓ Required Dissemination (e.g., statute, treaty, PD, MOU, court order)



# DODM 5240.01

## Other Procedures

### **5-9. INTRUSIVE COLLECTION TECHNIQUES**

- ✓ **Electronic Surveillance**
- ✓ **Concealed Monitoring**
- ✓ **Physical Searches**
- ✓ **Searches and Examination of Mail**
- ✓ **Physical Surveillance**

### **10. UNDISCLOSED PARTICIPATION IN ORGANIZATIONS**



# Other Procedures (DoD 5240.1-R)

**11. CONTRACTING FOR GOODS AND SERVICES**

**12. ASSISTANCE TO LAW ENFORCEMENT**

**13. EXPERIMENTATION ON HUMAN SUBJECTS FOR INTELLIGENCE PURPOSES**





# Other Procedures (DoD 5240.1-R)

## 14. EMPLOYEE CONDUCT

- ✓ Employee Training
- ✓ Employee Responsibility to Conduct Activities IAW Applicable Regulations
- ✓ IG Inspection Responsibilities
- ✓ Oversight Responsibilities of Intelligence Component Leaders

## 15. QUESTIONABLE INTELLIGENCE ACTIVITIES

- ✓ Identification of Reportable Activities
- ✓ Reporting Responsibilities
- ✓ Investigative Responsibilities

**Questionable Activities Frequently Involve  
More Than U.S. Person Issues**



# DoD SIOO

## **Intelligence Oversight Programs**



# **Intelligence Oversight Programs**

## **More Than a Three Ring Binder**

- **Training**

- ✓ Tailored Content and Presentation Format
- ✓ Records Management

- **Day to Day Command and Control**

- ✓ IO incorporated in planning and execution
- ✓ Legal review of proposals, plans, and executions

- **Independent Assessment**

- ✓ Assessment from the outside looking in – Generally the IG

- **Response Mechanism**

- ✓ Internal and External Reporting systems and processes
- ✓ Timely and Thorough Command Inquiry
- ✓ Appropriate Corrective Action





# Shared Responsibility





# Roles and Responsibilities

## Commanders or Directors:

- **Support an active program**
- **Designate appropriate oversight officials**
- **Provide for appropriate training**
- **Provide reprisal protection for persons reporting questionable activities**
- **Implement correct action to address substantiated allegations**





# Roles and Responsibilities, cont.

**JAGs and GCs are responsible for:**

- **Initial legal review of intelligence activities and plans**
- **Continued monitoring of intelligence activities' legality**
- **Cross talk with IGs as appropriate**







# Roles and Responsibilities, cont.

## Intelligence personnel

- **The first line of defense**
- **Know the standards and comply**
- **Willingly and actively serve as IOO's and participants in day-to-day control and execution of intelligence activities**
- **Report any:**
  - **Questionable Intelligence Activities**
  - **Significant or Highly Sensitive Matters**





# Roles and Responsibilities, cont.

## DoD SIOO and GC DoD

- **Develop IO Policy and issue guidance**
- **Inspect and provide Department-level legal review of intelligence activities and plans**
- **Monitor progress and review findings of inquiries and investigations**
- **Inform and advise OSD Officials and report to the President's Intelligence Oversight Board and DNI**





# **Intelligence Oversight Reporting**





# PROCEDURE 15: IDENTIFYING, INVESTIGATING, AND REPORTING QUESTIONABLE ACTIVITIES

## Responsibility is Shared By:

- ✓ **COMMANDERS AND LEADERS**
- ✓ **EMPLOYEES**
- ✓ **INSPECTORS GENERAL**
- ✓ **JAGs and GCs**
- ✓ **GC DoD and DoD SIOO**



# Intelligence Oversight Reporting

- **Questionable Intelligence Activities (QIA)**
- **Immediate and Quarterly Reporting**
- **Significant or Highly Sensitive Matters (S/HSM)**



# A QUESTIONABLE INTELLIGENCE ACTIVITY IS ONE THAT MAY VIOLATE:

- **Law**
  - **Executive Order**
  - **Presidential Directive**
  - **Intelligence Community Directive**
  - **DoD Policy**
  - **Service, Agency, or Command Policy or Regulation**
- ...and is Incident to an Intelligence or Intelligence-  
Related Activity or misuse of an intelligence authority**





# **SIGNIFICANT OR HIGHLY SENSITIVE MATTER**

- **Impugn the Reputation or Integrity of the DoD IC**
- **Call Into Question the Propriety of an Intelligence Activity**
  - **Activity Involving Congressional Inquiries or Investigations**
  - **Activity That May Result in Adverse Media Coverage**
  - **Activity That May Impact on Foreign Relations or Foreign Partners**
  - **Activity Related to Unauthorized Disclosure of Classified or Protected Information**



# REPORTABLE ISSUES

- **Questionable Intelligence Activities (QIA)**
  - ✓ **Report Quarterly**
- **Significant or Highly Sensitive Matters (S/HSM)**
  - ✓ **Report Immediately**
- **Crimes Reported to the Attorney General**
- **Congressional Testimony, Notifications, Reports, or Briefings**
  - ✓ **Individual Members of Congress**
  - ✓ **Congressional Committees**
  - ✓ **Members of the Congressional Staff**



# DoD SIOO

## **IO Inspection Program**





# Attributes of the Best IO Programs

- **Command and Leader Involvement**
- **Identified Responsibilities and Standards**
- **Formally Designated IO Officials**
- **Training – EARLY, OFTEN, CREATIVE**
  - **Tailored to the Organization and Mission**
- **Active Part of all Operational Planning and Execution**
- **Active SJA/GC Involvement**
- **QIA and S/HSM Reporting**
  - **Timeliness**
  - **Prompt and Appropriate Investigation and Corrective Action**



# Inspection Methodology Objectives

- **Assess compliance with laws & policy**
- **Identify potential or emerging areas of concern affecting the Component and/or Defense Intelligence Enterprise**
- **Identify and promulgate best practices**
- **Improve DoD intelligence oversight policy and processes**



# Inspection Methodology Process

- ☐ **Policy**
- ☐ **Checklist**
- ☐ **Schedule**
- ☐ **Preparation**
- ☐ **Execution**
- ☐ **Follow-up**





# Inspection Methodology Process

- ✓ **Policy**
- ☐ **Checklist**
- ☐ **Schedule**
- ☐ **Preparation**
- ☐ **Execution**
- ☐ **Follow-up**



# Inspection Methodology Policy

- **DoDD 5148.11, “Assistant to the Secretary of Defense for Intelligence Oversight,” April 24, 2013**
- ***New* DoD Instruction 5148.11, “Intelligence Oversight,” TBD**
- **All other policies governing intelligence, counterintelligence, and intelligence-related activities**



# Inspection Methodology Process

- ☐ Policy
- ✓ Checklist
- ☐ Schedule
- ☐ Preparation
- ☐ Execution
- ☐ Follow-up





# Inspection Methodology

- **General** (DoDD 5240.01, DoDM 5240.01)
- **Functional**
  - ❖ **HUMINT**
  - ❖ **SIGINT**
  - ❖ **MASINT**
  - ❖ **CI**
  - ❖ **GEOINT**



# Inspection Methodology Process

- ☐ Policy
- ☐ Checklist
- ✓ Schedule
- ☐ Preparation
- ☐ Execution
- ☐ Follow-up



# Inspection Methodology Schedule

1<sup>st</sup> Qtr FY 17 **USTRANSCOM – NGB**  
2<sup>nd</sup> Qtr FY 17 **USSOUTHCOM – USPACOM**  
3<sup>rd</sup> Qtr FY 17 **NSA – USCENTCOM**  
4<sup>th</sup> Qtr FY 17 **DIA – NAVY**

1<sup>st</sup> Qtr FY 18 **DTRA/JIDA - ARMY**  
2<sup>nd</sup> Qtr FY 18 **NGA - USSOCOM**  
3<sup>rd</sup> Qtr FY 18 **USEUCOM - NRO**  
4<sup>th</sup> Qtr FY 18 **USSTRATCOM/USCYBERCOM**

1<sup>st</sup> Qtr FY 19 **DSS - PFPA**  
2<sup>nd</sup> Qtr FY 19 **AIR FORCE - USAFRICOM**  
3<sup>rd</sup> Qtr FY 19 **USNORTHCOM - USMC**  
4<sup>th</sup> Qtr FY 19 **USFK - USEFJ**





# Inspection Methodology Process

- ☐ Policy
- ☐ Checklist
- ☐ Schedule
- ☒ Preparation
- ☐ Execution
- ☐ Follow-up



# Inspection Methodology Preparation

- **Notification Memo (POC, SIIs)**
- **Read-Ahead Documents**
  - **Implementing Guidance**
  - **SOPs**
  - **Training POI**
  - **Mission Brief**
  - **Previous Inspection Reports**
  - **QIAs**
- **SMEs**



# Inspection Methodology

## Special Interest Items

- **Intelligence and intelligence-related ACCMs and SAPs**
- **Command processes to assess Service Component compliance with laws and policy governing the conduct of intelligence activities**
- **Command processes for collecting and handling USPI in support of information operations**
- **Command processes to evaluate for permanent retention USPI**
- **Use of cover to facilitate open source collection**





# Inspection Methodology Process

- ☐ Policy
- ☐ Checklist
- ☐ Schedule
- ☐ Preparation
- ✓ Execution
- ☐ Follow-up





# Inspection Methodology Execution

- **30-day review**
- **1-5 inspectors from DoD SIOO, OUSD(I), others**
- **1-3 day site visit at HHQ and other locations**



# Inspection Methodology Report

**Report findings, recommendations, observations, and best practices to SECDEF and Component Head (approximately 60 days after site visit)**

- **Identify Areas for Improvement and Best Practices**
- **Note Areas for DoD Policy and SIOO Support Improvement**
- **No Surprises**





# Inspection Methodology Process

- ☐ Policy
- ☐ Checklist
- ☐ Schedule
- ☐ Preparation
- ☐ Execution
- ☒ Follow-up





# Inspection Methodology Follow-up

- **DoD SIOO works with Component to resolve discrepancies – continuous support**
- **Identify trends for senior leader insight**
- **Special Interest Items**
- **Incorporate policy improvement suggestions during revision cycle**



# Inspection Methodology

## Continuous Engagement

- **Staff Assistance Visits**
- **Ride-Along's**
- **Limited notice inspections**
- **Investigations**





# What We Are Seeing

## A Generally Compliant Community

- **NON-COMPLIANCE MOSTLY INADVERTENT**
  - Unjustifiable Files on Domestic Groups
  - U.S. Person Data Improperly Included in Products
  - Inappropriate Maneuver Commander Taskings
  - Inappropriate Open Source Netsurfing
- **OCCASIONAL INTENTIONAL NON-COMPLIANCE**
  - Willful Disregard of Regulations for a Perceived Greater Good
  - Contractor Misconduct
  - Employment of Unauthorized Source Nets
  - Misuse of Intelligence Resources for Personal Gain



# Past Problem Areas

- **Operators get trained, leaders don't**
- **Lack of familiarity with regulations**
- **Intelligence collection and production actions get ahead of authorities and approvals**
- **IO (Intelligence Oversight) and IO (Information Operations) processes blur**



# ELO Review

- Identify the **key directives** guiding IO.
  - ✓ E.O. 12333 -- The Presidential Order
  - ✓ DoDD 5240.1 -- The DoD Implementing Policy
  - ✓ DoDM 5240.01 -- The DoD Guidelines
- Describe the **Defense Intelligence Components**
  - ✓ **All DoD organizations that perform foreign intelligence or counterintelligence Missions or functions**
- Describe the **Joint IG's responsibilities** for providing independent oversight of intelligence activities.
  - ✓ Commanders - Enforce Standards, Train, Report, Inquire, Correct
  - ✓ IC Professionals – Comply with Standards, Report
  - ✓ **Inspectors General – Inspection and Oversight, Report, Inquire**
  - ✓ Legal Advisors - Legal Review, Report
  - ✓ DoD SIOO & DoD GC – Oversight, Review, Report





# ELO Review

- Identify the **reporting procedures** for QIAs and S/HSMs.
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# **“What’s It All About?”**

## **A Summation in Four Bullets**

- **Command, Control, and Supervision of Intelligence Activities**
- **Rules for Governing the Professional Conduct of Intelligence Professionals**
- **A Program to Protect Privacy and Civil Liberties**
- **A System of Ethics and Accountability**



# SIOO Points of Contact

**<http://dodsioo.defense.gov/>**



**QUESTIONS?**